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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,975	01/16/2001	Roy Frank Brabson	5577-217	4362
20792	7590	02/27/2006	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			HU, JINSONG	
PO BOX 37428			ART UNIT	PAPER NUMBER
RALEIGH, NC 27627			2154	

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/760,975	BRABSON ET AL.	
	Examiner	Art Unit	
	Jinsong Hu	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 November 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-35 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

1. Claims 1-35 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Abjanic (US 6,732,175).
4. As per claims 1-2 and 9-13, Abjanic teaches the invention as claimed including a method for providing transactional quality of service, the method comprising the steps of providing transaction service level information for a data transmission transaction to a communication process executing on a data processing system from an application executing on the data processing system requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction [225, Fig. 2; col. 3, lines 23-30; col. 6, lines 22-39]; and

determining a quality of service level associated with the data transmission transaction based on the transaction service level information received by the communication process from the application [col. 4, lines 3-7; col. 8, lines 5-16 & 53-67; col. 9, lines 56-67].

5. As per claims 3-5, Abjanic teaches the step of incorporating comprises incorporating quality of service level information into an Internet protocol (IP) header field of data transmissions associated with the data transmission transaction [col. 6, lines 1-11; col. 6, lines 12-21 &28-39].

6. As per claims 6-7, Abjanic teaches the data transmission associated with the data transmission transaction are data transmission transmitting data provided with a request from the application for the data transmission transaction [col. 6, lines 12-21 &28-39].

7. As per claim 8, Abjanic teaches the data for the data transmission transaction is encrypted [col. 10, lines 1-12].

8. As per claims 14-16, Abjanic teaches the steps of determining if a response associated with the data transmission transaction is received by the communication process [col. 6, lines 22-27]; and allocating resources of a data processing system associated with the communication process to process the received response utilizing a

quality of service level based on the determined quality of service of the data transmission transaction established for the data transmissions associated with the received response [col. 6, lines 40-62].

9. As per claim 17, Abjanic teaches the quality of service level utilized to allocate resources of the data processing system is different from the determined quality of service [col. 7, lines 34-37; col. 8, lines 5-16].

10. As per claims 18-20, Abjanic teaches the step of determining a quality of service level comprises the steps of determining if the transaction service level includes an identification of a predefined quality of service level [col. 7, lines 42-49]; and utilizing the predefined quality of service level as the determined quality of service level if the transaction service level includes an identification of the predefined quality of service level [col. 6, lines 50-62; col. 7, line 66 – col. 8, line 16].

11. As per claims 21 and 22, Abjanic teaches the communication process comprises a TCP/IP kernel and a communication protocol stack [col. 5, lines 28-40].

12. As per claims 23-26, Abjanic teaches the invention as claimed including a method for establishing a quality of service level for the transmission of data, comprising: providing an application program interface to a communications process which both receives data to be transmitted by the communication process and receives

quality of service information associated with the data to be transmitted so as to establish the quality of service level for the transmission of the received data without reference to the contents of the received data to be transmitted [col. 3, lines 23-30; col. 4, lines 3-7; col. 6, lines 22-39; col. 8, lines 5-16 & 53-67; col. 9, lines 56-67].

13. As per claims 27-31, since they are system claims of claims 1, 14, 19 and 21-22, they are rejected for the same basis as claims 1, 14, 19 and 21-22 above.

14. As per claims 32 and 34, since they are apparatus and computer program claims of claim 1, they are rejected for the same basis as claim 1 above.

15. As per claims 33 and 35, since they are system and computer program claims of claim 23, they are rejected for the same basis as claim 23 above.

Conclusion

16. Applicant's arguments respect to claims 1-35 have been fully considered but they are not deemed to be persuasive.

In the remarks, applicant argued in substance that

(1) Abjanic does not teach a communication process executing on a data processing system from an application executing on the data processing system requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction;

(2) Abjanic does not teach receiving quality of service information associated with the data to be transmitted so as to establish the quality of service level for the transmission of the received data without reference to the contents of the received data to be.

17. Examiner respectfully traverses applicant's remarks:

A. As to point (1), applicant fails to consider the teaching of the Abjanic's reference for providing transaction service level information to a data processing system for a data transmission transaction [col. 7, lines 34-50]. Furthermore, Abjanic's discloses switching messages to a selected server based on the content of application data, the content only determines the type of the service, it does not determine the service level, the transaction service level will be determined by transaction service level information [i.e., XML pattern]. Thus, Abjanic does teach a communication process executing on a data processing system from an application executing on the data processing system requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction.

B. As to point (2), applicant fails to consider the teaching of the Abjanic's reference for receiving requesting message which including transaction service level information [i.e., XML pattern] from client and establishing the quality of service level for the transmission of the received data. Furthermore, Abjanic's discloses switching messages to a selected server based on the content of application data, the content only determines the type of the service, it does not determine the service level, the

transaction service level will be determined by transaction service level information [i.e., XML pattern]. Thus, Abjanic does teach the limitation in the claim.

Accordingly, Abjanic is still a relevant prior art reference.

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP §706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jinsong Hu

February 17, 2006



JOHN FOLLANSBEE
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